

Remarks

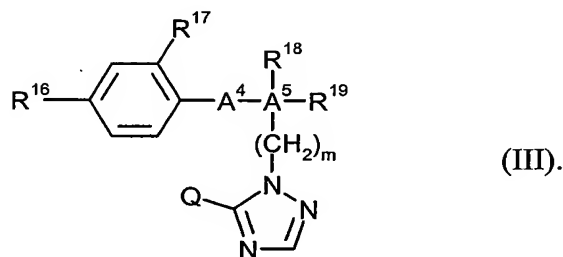
Reconsideration of this Application is respectfully requested.

Upon entry of the foregoing amendment, claims 4 and 13-16 are pending in the application, with claim 4 being the independent claim. Claim 4 has been amended. Support for the amendment is found in the specification and claims as originally filed. Claims 1-3 and 5-12 are sought to be cancelled without prejudice to or disclaimer of the subject matter therein. New claims 15 and 16 are sought to be added. Support for new claim 15 is found throughout the specification, for example, in original claim 2. Support for new claim 16 is found throughout the specification, for example, in originally filed claim 2 and in Examples A, B and D-F on pages 79-80 and 83-88 of the specification as filed. These changes are believed to introduce no new matter, and their entry is respectfully requested.

Based on the above amendment and the following remarks, Applicants respectfully request that the Examiner reconsider all outstanding objections and rejections and that they be withdrawn.

Description of the Invention

Claim 4 as amended is directed to a composition comprising the carboxamide (1-1), *N*-(3',4'-dichloro-5-fluoro-1,1'-biphenyl-2-yl)-3-(difluoromethyl)-1-methyl-1*H*-pyrazole-4-carboxamide (group 1) and at least one active compound selected from triazoles of the general formula (III).



Claim Objections

The Examiner has objected to claim 5 as being of improper form. In view of the cancellation of claim 5, this objection has been rendered moot and its withdrawal is respectfully requested.

Rejections under 35 U.S.C. § 103(a)

Claims 1-4 have been rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over U.S. Application No. 2002/0198222 to Bruns *et al.* ("Bruns") in view of DE 102 15 292 to Dunkel *et al.* ("Dunkel"). In view of the cancellation of claims 1-3, the rejection is rendered moot. Applicants respectfully traverse the rejection of claim 4.

A. Prima Facie Case of Obviousness Has Not Been Established

Applicants respectfully disagree with the Office's statement that "Bruns *et al.* teaches the use of combination of compounds as microbicides and this includes derivatives of carboxamide and the co-components tebuconazole" The claims of the present invention are directed to a composition comprising a carboxamide compound (1-1) and at least one active compound selected from triazoles of the general formula (III). In contrast to the carboxamides of the present application, the triazolopyrimidines of Bruns are a completely different class of compounds. In fact, Bruns does not teach or even suggest the carboxamide (1-1) of the present invention. The compound the Office

points to in Bruns as a carboxamide of the present invention is actually a benzothiazole, which is not even in the same general structural class as the carboxamide (1-1) of the present invention. Further, Bruns teaches combining its triazoles with many different types of compounds. Nowhere does Bruns teach combining the carboxamide of the present invention with tebuconazole. Tebuconazole is just one compound among many other compounds that Bruns teaches. Bruns does not teach or suggest the advantage of using tebuconazole over any other of the many compounds that it teaches.

Dunkel does not cure the deficiencies of Bruns. Dunkel is directed to pyrazolyl carboxamide derivatives useful as fungicides and bactericides for the protection of plants. Substituting the carboxamide derivatives allegedly taught by Bruns with the carboxamide derivatives of Dunkel would not yield the compositions of the present invention.

In sum, there is nothing in the cited references that would indicate a reason to a person of ordinary skill in the art to combine carboxamides of the present application with triazole fungicides of general formula III. Thus, for this reason, Applicants respectfully submit that the Examiner has not established a *prima facie* case of obviousness.

B. Synergistic Effect

Even assuming that a *prima facie* case of obviousness has been established, which it has not, the synergistic effect exhibited by the claimed combination is sufficient to overcome any *prima facie* case of obviousness.

As discussed above, Bruns does not teach the combination of carboxamide derivatives of the present invention with compounds of formula III. The data on pages 79, 80 and 83-88 of the specification shows that the claimed combination has a synergistic fungicidal effect when applied to different crop plants. For example, in Example B on page 80 of the specification, a combination of compound 1-1 and compound 3-15 (prothioconazole) is applied to young plants which are then dusted with the spores of *Erysiphe graminis f.sp. hordei*. The efficacy of control of infection using compound 1-1 alone or compound 3-15 alone are 0% and 67%, respectively. However, the efficacy of the combination, 89%, is greater than the combined efficacy of each individual component. Similar synergistic results for combinations of compound 1-1 with azoles compounds of group 3 are demonstrated in Examples A and D-F on pages 79 and 83-88 of the specification.

Applicants respectfully assert that Bruns does not indicate that a synergistic effect could be achieved with a composition comprising *N*-(3',4'-dichloro-5-fluoro-1,1'-biphenyl-2-yl)-3-(difluoromethyl)-1-methyl-1*H*-pyrazole-4-carboxamide and fungicidal azole derivatives. The results demonstrated in Examples A, B and D-F of the specification would not have been expected or suggested by the cited references.

Accordingly, for at least the reasons discussed above, claim 4 is not *prima facie* obvious over Bruns and Dunkel. Reconsideration and withdrawal of the rejection of claim 4 under 35 U.S.C. § 103(a) is respectfully requested.

Applicants also respectfully request that Examiner consider all triazoles of Group 3 together for examination in this application. All the compounds in Group 3 are related

as azole compounds. Applicants submit that examining the subject matter of Group 3 together will not be a serious burden on the Examiner.

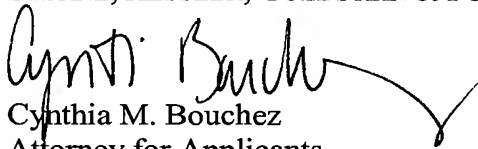
Conclusion

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Respectfully submitted,

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